IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE JURISDICTION

WRIT PETITION NO.1813 OF 2005

Shri.Harischandra Eknath Phapale and Ors. ..Petitioners

Vs.

Shri.Sanjay Vinayak Khanzode ..Respondent

...

Mr.A.M.Riyaz for Petitioners

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CORAM : B.H.MARLAPALLE,J.

DATE : APRIL 29,2005

P.C.:

1. Heard the learned counsel for the Petitioners who were impleaded as defendants in Special Civil Suit No. 66 of 2001. The said suit was decreed on 31.8.2001 by the learned Civil Judge S.D.at Nasik. The Petitioners subsequently filed Special Civil Suit No. 273 of 2003 for declaration that the decree obtained in Special Civil Suit No. 66 of 2001 was by way of fraud on the Court and therefore, it was required to be set aside. The said suit has been dismissed by the Court below on 12.10.2004. Hence, this petition.

2. The impugned order passed against the Petitioners has given finality to the proceedings which they had

initiated and the impugned order is not an interlocutory order. The Petitioners may therefore, have a remedy of filing an appeal or a revision application as per the provisions of the Civil Procedure Code. When a statutory remedy is available to the Petitioners, this petition need not be entertained.

3. Hence, the petition is disposed of with liberty as is available in law.

[B.H.MARLAPALLE,J.]